of this committee as a practice tending to impede the impartial administration of the Federal criminal law and may not be resorted to so frequently as to properly constitute a practice, still, in the opinion of this committee the extradition of a person charged with crime and his transfer from one State to another—perhaps far distant and by a route calculated to prevent his obtaining a writ of habeas corpus to test the validity of the proceedings which resulted in his arrest and transportation—presents a condition of affairs which, if possible, should be made impossible by legislation.

"If the court, before whom the person charged with crime is brought, in reality has no jurisdiction and the person is deprived of any opportunity to test that question by reason of his hasty transportation to and custody in a remote part of the United States, he has to all intents and purposes been kidnaped, and such person would seem to have been deprived of his liberty without due process of law. We, therefore, recommend to the consideration of Congress whether Congress cannot constitutionally provide some remedy against the possibility of injustice in the execution of extradition under clause 2 of section 2 of Article IV of the Constitution of the United States, either by providing that the person so charged with crime shall not be removed from the State in which he is found within a certain number of days, thus affording him an opportunity to test the validity of his arrest and extradition in habeas corpus proceedings, or in some other manner if authority for any such exists."

The "Third Degree."—Henry C. Spurr, in a recent article in *Case and Comment,* discusses the legal aspect of confessions made to police officers. Among other things he says:

"The Hon. Orlando Hubbs, of Long Island, came forth at the present session of the New York Senate, with a bill designed to shield persons under arrest from the terrors of this modern inquisition, as some of the observers are pleased to call the police practice of questioning prisoners. The bill makes any admission by the defendant while under arrest inadmissible as evidence unless corroborated by a disinterested person and the defendant has been advised that his admissions may be used against him. As in the case of the good deacon who always accepted every adverse stroke of fortune with resignation, but who finally declared it was about time to express his sentiments when one day a tornado came along, uprooted his trees, leveled his fences and barns and knocked the deacon himself in a heap behind his cow stables, it would seem as if the time had come to say something on the other side of this question on behalf of a sane administration of the criminal laws for the protection of life and property, especially in view of the fact that we in America have already been at such pains to safeguard every interest of the accused that it sometimes takes as long as three months to get a jury in a criminal case, and when, by reason of delays and technicalities and new trials, the course of justice is so impeded and the punishment of crime made so uncertain that our administration of criminal law has caused us to become a laughing stock in other countries. Before making this new crossing suggested by Senator Hubbs, is it not our duty to stop and look and listen?

"An examination of the cases will show that the courts have been influenced by two theories as to the propriety of the use of confessions. The first of these may be called the humanitarian theory. It is responsible for all

the courtesies that have been extended to persons accused of crime, for the delays and the technicalities which have made the administration of the criminal laws at the present day so slow, so uncertain and, in many respects, so unsatisfactory. As applied to the exclusion of confessions, it has been called by Jeremy Bentham, in his 'Rationale of Judicial Evidence' (7 Bentham's Works, Bowring's edition, p. 454 ff), 'the fox hunter's reason.'

"The other theory is that confessions are to be excluded only when there is reason to believe that they may not be true. If they appear to be reliable, the fact that the accused may have been taken off his guard is no objection to them, since the punishment of crime is not a sport or a game, but a serious business, made necessary for the welfare of society and the protection of life and property. 'The reason for the exclusion of confessions,' says the court in People v. Wentz, 37 N. Y. 304, 'is not because any right or privilege of the person has been violated, but because it is deemed unsafe to rely upon it as evidence of guilt.'

"There is, of course, some real danger that confession may not be true. It would hardly seem as if an innocent man would admit the commission of a serious crime; but experience has amply shown that they may do so. It has been said that 'the human mind, under the pressure of calamity, is easily seduced, and is liable, in the alarm of danger, to acknowledge indiscriminately a falsehood or a truth as different agitations may prevail.' (2 Hawk, P. C. 6th ed., p. 604.) Let this be conceded. Then, if the reliability theory as to the admission of confessions is sound, the problem of dealing with the third degree is not whether the personal comfort of the accused is likely to be disturbed, but whether admissions secured in this way can be depended upon. Are innocent men being brow-beaten into confessions of crime by means of the third degree?

"It is unquestionably true that many criminals have confessed their guilt or have made admissions which have led to their conviction, under the 'grilling' of the police, which they would not have done if they had had time for deliberation, or had had an opportunity to consult counsel. Many have been convicted when they would have gone free had they kept still, but this is far from being against the peace and welfare of society. It is rather for its benefit. As before stated, it is the serious business of the state to discover and punish the guilty, and, if the police are assisted in their part of this duty by the employment of the third degree, honest men need not be conscience stricken because the process is not always entirely fair, in the sense that word is used by the sportsman, to the criminal.

"But conceding the purpose of the police to be honest, are unreliable confessions produced by means of the third degree? Confessions extracted by means of physical torture are worthless. Are statements drawn out by this so-called mental inquisition also not to be relied on? When it is remembered that nothing that can operate on the hopes or the fears of the accused is permitted, nothing that can be construed either as an inducement or a threat is allowed, it would seem as if little room were left to lead an innocent man to say he is guilty. An examination of all the reported cases on the subject will show in fact that there is little chance of this. And if this is so, the proposed New York law would not be a benefit, but a menace to the State.

"If Senator Hubbs' bill should become a law, it would practically shut

out all confessions, for, in cases in which they might be useful, how are they to be corroborated by a disinterested person? Who is this disinterested person to be? It would mean that conviction must be secured without confessions.

"If there is to be any restriction in the use of confessions, it would seem as if it ought to be aimed at verbal admissions. These are oftentimes extremely unreliable, because the words of the accused may have been misunderstood and misinterpreted, and because he may be misrepresented, owing to the infirmities of the memory of witnesses and, also—to concede a point—by the desire of an overzealous public officer to convict one whom he believes guilty of a crime. But if the confession is signed by the accused, or taken down accurately when it is made, and there is every reason to believe that it is true, it would seem as if it ought not to be rejected simply because it was obtained by means of the third degree.

"On every side the cry is raised that we are altogether too lax in the enforcement of our criminal laws. It would seem as if no necessity had yet been shown for the erection of a new barrier to the punishment of crime by the abolition of the third degree." R. H. G.

Reform the Criminal Law.—One appalling concrete statement from the well-presented discussion of Judge George Hillyer, recently published, should serve to press upon State legislatures the importance of reforming the criminal law along certain well recognized and essential lines. In substance, that statement is this:

In 1910 there were 8,975 homicides in the United States, nearly all of which were murders; only one in eighty-six of the criminals suffered capital punishment. This was an increase of nearly 900 homicidal crimes over 1909, when one criminal in seventy-four was executed. Georgia shared in both the record and the increase in extent greater than that proportionate to population.

In London, a city of 7,000,000 inhabitants, there were but nineteen murders in 1910 and only twelve in 1909. Atlanta, with her 160,000 population, will easily equal that record, though immeasurably behind London in the percentage of criminals captured and dealt with by law; for there escape is the exception.

The reason for the difference is found in the swiftness and the certainty of punishment under the English criminal law, whose quality and administration are effective in the suppression both of criminal tendency and mob rule.

R. H. G.

Imperative Law Reforms.—In the *Editorial Review* of July, 1911, is an article on "Imperative Law Reforms," by Edward J. McDermott, of Louisville, Ky., from which the following is taken:

"The experiment of law reform in England and Germany during the past thirty years has made it plain that we ought to reform and must reform, by radical measures, our system of procedure both in civil and criminal trials.

"The present demand for law reform in the United States is imperative and widespread. Former President Roosevelt and President Taft, in public addresses and official messages, have frequently and earnestly recommended a thorough-going reform of civil and criminal procedure in the Federal Courts in order that similar improvements might be promoted later in State courts. In the fall of 1910 the National Economic League submitted to its members a test vote to determine what subjects ought to be discussed at once by its